



THE EXPANDING EUROPEAN UNION

Trade Implications for Utah Companies

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History of EU Expansion

Member Countries

- 1957 Treaty of Rome – Belgium, France, Germany (West), Italy, Luxembourg and the Netherlands
- 1973 – Denmark, Ireland and the United Kingdom
- 1981 – Greece
- 1986 – Spain and Portugal
- 1990 – Germany (East, *de facto*)
- 1995 – Austria, Finland and Sweden
- May 2004 – Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia

Monetary Union – January 1, 2002

- 12 of the 15 countries (Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain)



Key Figures

	<u>USA</u>	<u>EU – 15</u>	<u>EU – 25</u>	<u>Change</u>
<u>Population</u> (millions, 2002 estimates)	291.0	388.0	462.4	19%
<u>Area</u> (millions of km ²)	9.6	3.2	3.9	23%
<u>GDP total</u> (US\$, trillions)	10.4	8.6	9.0	5%
<u>per capita</u> (US\$, 2002)	35,620	22,139	19,454	(12%)

Geography





Acquis Communautaire

1	Free movement of goods	17	Science and research
2	Free movement of persons	18	Education and training
3	Freedom to provide services	19	Telecommunications
4	Free movement of capital		and information technology
5	Company law	20	Culture and audio-visual policy
6	Competition policy	21	Regional policy
7	Agriculture	22	Environment
8	Fisheries	23	Consumers and health protection
9	Transport policy	24	Justice and home affairs
10	Taxation	25	Customs union
11	Economic and monetary union	26	External relations
12	Statistics	27	Foreign and security policy
13	Social policy and employment	28	Financial control
14	Energy	29	Financial and budgets
15	Industrial policy	30	Institutions
16	Small/medium-sized enterprises	31	Other



Sample Transition Exceptions

- Free movement of people – except for Malta and Cyprus, 2 - 7 year period where existing Member States' national laws will continue to apply to Accession Country workers
- Free movement of capital – agricultural land and forests subject to existing national laws for 7 years in Czech, Slovak, Hungary, Lithuania, Latvia and Estonia and for 12 years in Poland
- Agricultural subsidies to be phased in from 2004 to 2013



Some Legal Implications

- Exports
- Contractual issues
- Intellectual property
- Direct investments



Exports

- Current customs and tariff regulations in Accession Countries become void on May 1, 2004
- EU Common Customs Tariff regulations will apply from May 1, 2004 to Accession Countries
- Impact on tariffs
- US Commercial Service's website (www.buyusa.com) is useful



Impact on Tariffs

- On US goods . . .
 - average tariffs to fall, e.g., Hungary average tariff level of 3.5% instead of the current 8.9%
 - tariffs will decrease for most U.S. agricultural exports, including e.g., animal genetics, corn seed, dry beans, grapefruit, dried fruits and nuts, peanuts, and tobacco in Hungary. Tariff increases will affect hatching eggs, rice, and some kinds of fresh meat
- On EU goods . . .
 - tariffs for industrial products imported into Hungary from the EU countries were eliminated on January 1, 2001

Source: <http://www.buyusa.com>



Contractual Issues

- Types of Contracts
 - Distribution and licensing arrangements
 - Manufacturing / supply agreements
 - Sales agency agreements
 - Credit agreements
 - Other
- Important contractual provisions
 - Review territorial limitations – e.g., prohibitions on passive or active sales, distribution, sublicensing, etc.



Contractual Issues

- Important contractual provisions
 - Review agreements covering one or more EU-15 countries and those covering one or more Accession Countries – conflicting exclusivity provisions
 - Review pricing policies – it will be tougher to enforce pricing differentials, if any, between EU-15 and Accession Countries
 - Credit agreement limits on use of proceeds often tied to territory definitions
 - Review financial covenant formulae in credit agreements



Intellectual Property

- Trademarks
 - Community Trademarks (CTMs) registered or applied for before May 1, 2004 are automatically extended to Accession Countries and cannot be invalidated or an application refused from an earlier national TM
 - Registrations of CTMs from November 1, 2003 to May 1, 2004 may be opposed, if an earlier national TM was acquired in good faith and predates the filing date of the CTM application
 - After May 1, 2004, potentially more conflicts
- Designs – automatic extension to Accession Countries; conflict issues
- Patents
 - EU enlargement will not directly affect current national patent systems; no Community patent system
 - EU enlargement will not affect the European Patent Convention (EPC) – a European patent application may already be extended to all of the Accession Countries except for Poland and Malta, which plan on acceding to the EPC
- Copyright and trade secrets - amendments to national laws



Direct Investment Issues

- Lead time to establish entities and complete registrations
- Employment, health and safety laws - relative labor cost advantages should diminish over time
- Expatriates – non-EU vs. EU nationals
- Real estate – agricultural land restricted; commercial property ownership less restrictive
- Political risks should diminish, but administrative and court backlog and corruption



Direct Investment Issues

- Exchange risks – not full members of the Economic and Monetary Union (EMU), expect to adopt the Euro in 2006 at the earliest or when they meet the Maastricht criteria, including budget deficits and debt criteria
- Merger control issues – EU vs. member state approvals; turnover thresholds, etc.
- Data protection – EU standards apply
- Liquidity – equity and debt markets not well developed
- Company law – no significant impact



Summary

- Look for export opportunities
- Review existing contracts
- Protect your IP
- Look carefully before you invest

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